

### **REMARKS/ARGUMENTS**

Claims 20-27 are currently pending in the present application. Claims 1-19 have been withdrawn from consideration. The Applicant affirms the election of claims 20-27. Claims 20-27 were rejected by the Examiner for various reasons. The Applicant addresses each of the rejections below. Reconsideration of this Application is respectfully requested.

#### **35 U.S.C. §102 Rejections**

Claims 20-22 and 25-27 have been rejected under 35 U.S.C. §102(b) as being anticipated by Bagaoisan et al (US Patent 6,152,909) (hereinafter, "the Bagaoisan patent"). This rejection is traversed.

The Applicant has thoroughly considered the Examiner's remarks concerning the patentability of claims 20-22 and 25-27 over the Bagaoisan Patent. The Applicant has also thoroughly read the Bagaoisan Patent. In order for the Bagaoisan Patent to anticipate the invention as claimed in independent claim 20, the Bagaoisan Patent must disclose, teach, or suggest each and every claimed element of the Applicants' invention, "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Regarding claim 20, the Bagaoisan Patent does not disclose, teach, or suggest a system for treating a vulnerable plaque associated with a blood vessel of a patient, comprising a rupture device that ruptures a fibrous cap of the vulnerable plaque. In fact, the Bagaoisan Patent does not disclose teach or suggest any system for treating a vulnerable plaque. At most, the Bagaoisan Patent teaches a system for treating partial and complete occlusions of blood vessels. As is well understood by those with skill in the art, a vulnerable plaque is non-occlusive, being located under the arterial wall. Therefore, because the Bagaoisan Patent does not teach a system of treating a vulnerable plaque, the Bagaoisan Patent also does not teach all of the claimed elements of independent claim 20. For at least this reason, the rejection of claim 20 as being anticipated by the Bagaoisan Patent must fall.

Claims 21-22 and 25-27 depend directly or indirectly from independent claim 20 and include all of the limitations of that claim. For at least this reason, 21-22 and 25-27 are allowable over the Bagaoisan Patent.

Regarding claim 25, the Bagaoisan Patent also fails to teach a system for treating a vulnerable plaque that includes a stent operably coupled to the rupture device. In fact, the Bagaoisan Patent teaches away from a stent coupled to the rupture device. The Bagaoisan Patent teaches a system using a plurality of devices and catheters for treating an occluded vessel. The Bagaoisan Patent does not teach any device that combines a compression device and a treatment device as claimed by the Applicant. For this additional reason claim 25 is allowable over the Bagaoisan Patent.

Regarding claim 26, the Bagaoisan Patent also fails to teach a system for treating a vulnerable plaque that includes a cauterizing device that cauterizes the vulnerable plaque. As described above, the Bagaoisan Patent fails to teach or suggest a system for treating a vulnerable plaque. Consequently, the Bagaoisan Patent also does not teach a system having a cauterizing device that cauterizes the vulnerable plaque. For this additional reason claim 26 is allowable over the Bagaoisan Patent.

For these reasons, the Applicant requests the withdrawal of the rejection of claims 20-22 and 25-27 as being anticipated by the Bagaoisan Patent.

#### 35 U.S.C. §103 Rejections

Claims 23-24 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Bagaoisan et al. '909, in view of Campbell et al. (US Patent 6,245,026). This rejection is traversed. Claims 23-24 depend from allowable claim 20 and include all of the limitations of that claim and are, thus, allowable for this reason. Additionally, because the Bagaoisan Patent does not teach a detection device that detects the vulnerable plaque as recited in claim 23, the Bagaoisan Patent also does not teach wherein the detection device comprises a thermal sensor, as recited in claim 24.

Furthermore, where a claim is non-obvious over the prior art, those claims depending therefrom are also non-obvious. For these reasons claims 23-24 are allowable over Bagaoisan in view of Campbell. The withdrawal of the rejection of claims 23-24 is requested.

#### Double Patenting Rejection

Claims 20-27 were provisionally rejected under 35 USC. 101 as claiming the same invention as claims 20-27 of copending Application No. 10/427,680. Application No. 10/427,680 is assigned to the same assignee of record. Claims 20-27 of Application No.

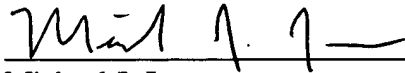
Application No. 10/625,809  
Amd. Dated: November 23, 2005  
Reply to Office Action mailed September 1, 2005

10/427,680 have been withdrawn from consideration and pending the allowance of Application No. 10/427,680, withdrawn claims 20-27 will be cancelled obviating the double patenting rejection.

Conclusion

For the foregoing reasons, Applicant believes all the pending claims are in condition for allowance and should be passed to issue. The Commissioner is hereby authorized to charge any additional fees which may be required under 37 C.F.R. 1.17, or credit any overpayment, to Deposit Account No. 01-2525. If the Examiner feels that a telephone conference would in any way expedite the prosecution of the application, please do not hesitate to call the undersigned at telephone (707) 566-1746.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael J. Jaro", is written over a horizontal line.

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